

^ARTICLE 27Q

FENWAY INTERIM PLANNING OVERLAY DISTRICT (^Article inserted on May 30, 2000)

SECTION 27Q-1. Statement of Purpose. The purposes of this article are to establish interim planning standards and to facilitate the comprehensive planning and rezoning of the Fenway; to manage the future development of this area for the use and benefit of the inhabitants of the Fenway neighborhood and Boston; to provide a predictable, clear, and understandable process for the public review of new development; to encourage the most appropriate uses of land; to provide for a buffer between the residential community and the adjacent entertainment and institutional uses; to address traffic congestion problems and provide for appropriate pedestrian and vehicular circulation patterns; to provide appropriate density controls that protect established residential areas and direct growth to areas where it can be accommodated; to provide for appropriate urban design controls and guidelines and to ensure that new buildings are compatible with the scale, massing, and architectural design of existing neighborhood buildings, and to improve the quality of signage; to maintain and expand the stock of affordable housing; to preserve, enhance, and create open space to be enjoyed by all residents; and to promote land uses that provide jobs for the City's residents.

SECTION 27Q-2. Declaration of Need for Interim Zoning. Interim zoning in the Fenway IPOD Study Area is necessary to provide the proper balance between competing land uses and economic and environmental factors, and to prevent poor siting and design of new buildings. Characteristics of existing zoning that render it inappropriate include its failure to: provide for zoning designations that result in the appropriate siting of land uses; prevent the intermingling of entertainment and institutional uses with residential uses and provide for transitional or buffer areas between residential and non-residential uses; provide for adequate pedestrian and vehicular circulation and access and prevent traffic congestion; discourage excessive density and height and prevent overdevelopment; provide adequate design guidelines to ensure that new buildings and signage are compatible with the scale, massing, and design of the existing residential neighborhood; provide for the creation of and rehabilitation of housing that is affordable to all segments of the community; and conserve and enhance open space.

SECTION 27Q-3. Definitions. For the purposes of this article only, the following terms shall have the meanings indicated:

1. "Applicant" means any person or entity having a legal or equitable interest in a Proposed Project that is subject to the provisions of this

article, as set forth in Section 27Q-5 (Applicability), or the authorized agent of any such person or entity.

2. "Interim Planning Permit" means a permit granted pursuant to Section 27-3 (Interim Planning Procedure) for a Proposed Project subject to the provisions of this article.
3. "Fenway IPOD" means the regulations imposed by this article.
4. "Fenway IPOD Study Area" means the area defined in Section 27Q-4 (Physical Boundaries).
5. "Fenway Planning Task Force" means the advisory committee appointed by the Mayor of Boston to advise the Boston Redevelopment Authority on planning and development matters pertaining to zoning and land use in the Fenway area.
6. "Large Project Review" means the review described as Large Project Review in Section 80B-1 (Large Project Review: Title).
7. "Planned Development Area Review" or "PDA Review" means the review described as Planned Development Area Review in Section 80C-1 (PDA Review: Title).
8. "Proposed Project" means the erection, extension, or substantial demolition of any structure, or the change of use or occupancy of any structure or land, for which the Applicant is required to obtain a building or use permit.
9. "Underlying Zoning" means all zoning regulations, with the exception of this article, that are contained in this Code and accompanying zoning maps.
10. "Zoning Relief" means any variance, conditional use permit, exception, zoning map or text amendment, or any other relief granted by the Zoning Commission or Board of Appeal.

SECTION 27Q-4. Physical Boundaries. This article shall be applicable only in the Fenway IPOD Study Area, which consists of the area depicted on Appendix A to this article. Within the Fenway IPOD Study Area there are two Special Study Areas, the Boylston Street Special Study Area and the Brookline Avenue/Lansdowne Street Special Study Area, which also are depicted on Appendix A to this article.

SECTION 27Q-5. Applicability. All Proposed Projects within the Fenway IPOD Study Area are subject to the provisions of this article unless exempt

pursuant to this Section 27Q-5. The following Proposed Projects are exempt from the provisions of this article:

- (1) Any Proposed Project for which a building or use permit has been issued prior to the first notice of hearing before the Zoning Commission for adoption of this article; provided that construction work under such permit is commenced within six months after its issue, and the work proceeds in good faith continuously to completion so far as is reasonably practicable under the circumstances.
- (2) Any Proposed Project for which a Project Notification Form for Large Project Review under Article 80 has been filed prior to May 1, 1999.

SECTION 27Q-6. Zoning Regulations in Effect; Conflict Provisions.

The Fenway IPOD and Underlying Zoning together constitute the zoning regulations for the Fenway IPOD Study Area. Where conflicts exist between the provisions of the Fenway IPOD and Underlying Zoning, the provisions of the Fenway IPOD shall govern. Upon expiration of this article, the Underlying Zoning shall be the sole set of zoning regulations for the Fenway IPOD Study Area.

SECTION 27Q-7. General Land Use Objectives for the Fenway IPOD Study Area. The general land use objectives for the Fenway IPOD Study Area are: to protect existing residential areas from any adverse effects of major non-residential uses, particularly entertainment and institutional uses; to provide for compatible adjacent uses and for buffer zones between conflicting uses; to provide for an appropriate mix of allowed land uses that encourage low- to medium-density residential development; to encourage the appropriate siting of uses that sustain the economic viability and residential stability of the Fenway by providing employment opportunities, services for residents and visitors, and affordable and market-rate housing; to protect and promote the Fenway as both a residential community and a gateway to the City; to develop design guidelines and off-premise sign controls that enhance the aesthetic character and economic viability of the Fenway; to improve pedestrian and vehicular circulation by encouraging the efficient use of existing off-street parking spaces and discouraging the development of net new off-street parking spaces; to develop parking and transportation access plans that reduce traffic and parking congestion; to provide for appropriate height and density controls that reinforce the existing character of low- and medium-density residential areas and to provide adequate light, air, and open space; and to provide for the enhancement of open space.

SECTION 27Q-8. Establishment of Special Study Areas. This Section 27Q-8 establishes the following Special Study Areas within the Fenway IPOD Study Area:

1. Boylston Street. Boylston Street runs through the center of the Fenway IPOD Study Area, with the residential areas of the West Fens and East Fens largely to the south and the remainder of the IPOD Study Area, including Fenway Park, to the north. At present, Boylston Street is poorly developed for pedestrian circulation and is used primarily as an artery for vehicular traffic through the Fenway to points east and west. The streetscape along Boylston Street is treeless and is dominated by surface parking lots, gas stations and other automotive uses, and entertainment uses and fast food establishments. Comprehensive planning studies for this area are needed to provide design guidelines that will enhance the aesthetic character and economic viability of the study area; to protect the adjacent residential area from incompatible uses, such as restaurants with entertainment, bars, a proliferation of take-out food establishments, and other entertainment and high-traffic commercial uses; to provide a more coherent streetscape; to reduce traffic congestion; and to improve pedestrian access with attention to people with special needs, including patients seeking ambulatory care.
2. Brookline Avenue/Lansdowne Street. The area along Brookline Avenue/Lansdowne Street is designated as a Special Study Area because the essential character of this area is not firmly established. Brookline Avenue runs from Kenmore Square through the Fenway IPOD Study Area, passing Fenway Park and converging with Boylston Street and Park Drive at the edge of the adjacent Longwood Medical Area. Uses along the avenue consist of an assortment of office, commercial, institutional, and entertainment uses and commercial parking lots. At present, Brookline Avenue is used primarily for vehicular traffic and is subject to frequent traffic congestion. Lansdowne Street, which extends between Brookline Avenue and Ipswich Street, has a concentration of entertainment and automotive uses. The Special Study Area is underutilized for pedestrian traffic. Most of the streetscape is treeless and offers few pedestrian amenities. Comprehensive planning studies for this area are needed to provide design guidelines that will enhance the aesthetic character and economic viability of the study area; to protect the nearby residential area from incompatible uses, such as restaurants with entertainment, bars, a proliferation of take-out food establishments, and other entertainment and high-traffic commercial uses; to provide a more coherent streetscape; to reduce traffic congestion; and to improve pedestrian access with attention to people with special needs, including patients seeking ambulatory care.

During the Fenway IPOD planning period, only after receiving the advice of the Fenway Planning Task Force, the Boston Redevelopment Authority shall develop

comprehensive land use and urban design guidelines for the Special Study Areas.

SECTION 27Q-9. Interim Height Controls. A Proposed Project that is subject to the provisions of this article shall not exceed a building height of sixty (60) feet, except as otherwise provided in a Planned Development Area Development Plan approved under Section 3-1A.a and Planned Development Area Review.

SECTION 27Q-10. Interim Parking Controls. The Fenway IPOD Study Area is located within the Restricted Parking District depicted on Map 1 (Boston Proper). See Section 3-1A.c concerning parking regulations within the Restricted Parking District. Within the Fenway IPOD Study Area, the following additional regulations shall apply, notwithstanding any contrary provision of Section 3-1A.c or Section 6-3A (Additional Conditions Required for Approval of Parking Facilities in a Restricted Parking District).

1. Non-Accessory Off-Street Parking Facilities. Within the Fenway IPOD Study Area, Use Item Nos. 58 (parking lot), 59 (parking garage), and 59A (airport-related remote parking facility), shall be forbidden.
2. Accessory Off-Street Parking for Residential Uses. A Proposed Project that includes one or more uses in Use Item Nos. 1 through 15 shall provide 0.7 accessory off-street parking spaces per dwelling unit.
3. Accessory Off-Street Parking for Non-Residential Uses. If a Proposed Project includes one or more uses that are subject to the provisions of Section 3-1A.c (Restricted Parking Districts), the provisions of this Section 27Q-10.3 shall apply.
 - (a) Replacement of Off-Street Parking Spaces. The applicant for a conditional use permit under Section 6-3A shall provide the Board of Appeal with information indicating the number of existing and proposed off-street parking spaces on the Lot (including the proposed number of net new parking spaces, if any) and the reasons why the Proposed Project's parking needs cannot be met by existing parking facilities.
 - (b) Maximum Number of Off-Street Parking Spaces. For a use that is subject to the provisions of Section 3-1A.c, the number of accessory off-street parking spaces shall not exceed 0.75 spaces per 1,000 sq. ft. of gross floor area.

SECTION 27Q-11. **Development Review and Design Guidelines.**

1. Development Review. During the IPOD period, for any Proposed Project that is subject to Large Project Review, the Boston Redevelopment Authority, in its Scoping Determination, shall require the preparation of a Transportation Access Plan (TAP), but only after receiving the advice of the Fenway Planning Task Force. The TAP shall, at a minimum, identify and evaluate the Proposed Project's impact on the City's transportation network, propose measures to minimize the transportation-related impacts of the Proposed Project, describe provisions for periodic re-evaluation of the effectiveness of those mitigation measures, and define responsibilities of the proponent to fund mitigation measures.
2. Design Guidelines. During the Fenway IPOD planning period, the Boston Redevelopment Authority, only after receiving the advice of the Fenway Planning Task Force, shall develop design guidelines for the Fenway IPOD Study Area to enhance and reinforce the existing scale, character, massing, and architectural elements of the area. Design guidelines shall address building design, open space and landscaping, signage and, within the Special Study Areas, any additional elements specific to those areas.

SECTION 27Q-12. Planned Development Areas. Within the Fenway IPOD Study Area, no Planned Development Area (PDA) shall be established except in conformity with this Section 27Q-12. PDAs are permitted within the portion of the Fenway IPOD Study Area north of Boylston Street. PDAs are not permitted elsewhere in the Fenway IPOD Study Area.

The following dimensional and parking requirements shall apply to any PDA Development Plan containing land in the Fenway IPOD Study Area unless the Boston Redevelopment Authority, in reviewing the Development plan through the PDA Review process, finds, after receiving the advice of the Fenway Planning Task Force, that different dimensions, or a different number of off-street parking spaces, would not be injurious to the neighborhood or otherwise detrimental to the public welfare, weighing all the benefits and burdens.

1. Dimensional Regulations. The dimensional requirements for a Proposed Project within a PDA shall be as set forth in the applicable approved PDA Development Plan, provided that the dimensions set forth in the Development Plan shall conform to the following limits:

Maximum Building Height:	70 feet along Streets 100 feet elsewhere
Street Wall height:	70 feet

Setback above Street Wall height: 20 feet

Maximum FAR: 5.0

2. Parking Regulations. The number of off-street parking spaces for a Proposed Project within a PDA shall be as set forth in the applicable approved PDA Development Plan, provided that the number of such parking spaces shall not exceed the following limits:

For residential uses: 0.7 spaces per dwelling unit

For non-residential uses: 0.75 spaces per 1,000 sq. ft. of gross floor area

The PDA Development Plan shall indicate the number of existing and proposed off-street parking spaces (including the proposed number of net new parking spaces, if any) and the reasons why the Proposed Project's parking needs cannot be met by existing facilities.

3. Public Benefit Criteria. The Boston Redevelopment Authority may approve, only after review and consideration by the Fenway Planning Task Force, a PDA Development Plan as meeting the requirement of Section 80C-4 (Standards for PDA Review Approval) for compliance with the applicable planning and development criteria of this article if the Development Plan proposes a plan for public benefits, consistent with the goals of this article and any master plan for the Fenway IPOD Study Area adopted pursuant to this article, including the expansion of the economy and job opportunities within the Fenway in a manner that protects the residential community from incompatible non-residential uses and one or more of the following: (a) the creation of new community housing opportunities; (b) the improvement of public transportation facilities or the introduction of measure to improve vehicular and pedestrian circulation; or (c) improvements to the aesthetic character of the development site and its surroundings, which may include the provision of open space connections, the provision of street trees and other improvements that enhance open space, the improvement of the urban design characteristics of the site and its surroundings, or the enhancement of existing open space or the creation of new open space.

SECTION 27Q-13. Institutional Master Plans. A Proposed Institutional Project in the Fenway IPOD Study Area shall be consistent with an approved Institutional Master Plan, within the meaning of Section 80D-2 (Applicability of Institutional Master Plan Review), unless the project is exempt from that requirement pursuant to Section 80D-2.3 (Exemption for Small Institutions). For purposes of this Section 27Q-13, "Proposed Institutional Project" has the

meaning set forth in Article 2A (Definitions). A Proposed Institutional Project within the Fenway IPOD Study Area shall be exempt from the requirement of Section 27Q-15 (Enforcement) to receive an Interim Planning Permit if the Zoning Commission has approved an Institutional Master Plan, pursuant to Section 80D-6 (Institutional Master Plan Review: Zoning Commission Approval), for the same Institution.

The Longwood Medical Area (LMA) Forum was established by the City of Boston as the community review organization, as identified in Section 80C-2, for planning and development issues in the Longwood Institutional Area depicted on Appendix A to Article 80. During the Fenway IPOD planning period, the Fenway Planning Task Force also shall review any proposed Institutional Master Plan that contains land: (a) within the Fenway IPOD Study Area, or (b) within the Longwood Institutional Area, if that land is contiguous to the Fenway IPOD Study Area. In addition, if a proposed Institutional Master Plan contains land within the Longwood Institutional Area not contiguous to the Fenway IPOD Study Area, the Boston Redevelopment Authority shall transmit copies of the proposed plan to the Fenway Planning Task Force, in care of its chairperson. The Fenway Planning Task Force's subcommittee on Transportation works with the Neighborhood Transportation Association, which was established by the Boston Transportation Department and the Boston Redevelopment Authority to review traffic and parking impacts on the neighborhood. In connection with this effort, the Association may request the Institution to make a presentation on the traffic and parking elements of its proposed Institutional Master Plan.

SECTION 27Q-14. Transportation Master Plan. During the Fenway IPOD planning period, the Boston Redevelopment Authority, in coordination with the Boston Transportation Department and the Fenway Planning Task Force, shall develop a Transportation Master Plan for the Fenway IPOD Study Area.

SECTION 27Q-15. Enforcement. Except as otherwise provided in Section 27Q-13 (Institutional Master Plans), the Commissioner of Inspectional Services shall not issue a building, demolition, or use permit for any Proposed Project subject to the provisions of this article unless the Board of Appeal has approved an Interim Planning Permit for the Proposed Project in accordance with Section 27-3 (Interim Planning Procedure) and Section 27Q-16 (Standards).

SECTION 27Q-16. Standards for Issuance of Interim Planning Permit. The Board of Appeal shall grant an Interim Planning Permit for a Proposed Project only if it finds: (a) the benefits to the community outweigh the burdens imposed; and (b) the Proposed Project is in substantial accord with the following:

1. The land use objectives set forth in Section 27Q-7 (General Land Use Objectives for the Study Area);

2. The planning studies conducted pursuant to Section 27Q-8 (Establishment of Special Study Areas), as applicable;
3. The interim height and parking controls set forth in Sections 27Q-9 and 27Q-10, as applicable;
4. Any other applicable provisions of this article.

If the Boston Redevelopment Authority has made a recommendation to the Board of Appeal on the issuance of an interim planning permit, the Board of Appeal shall follow such recommendation unless specific, written reasons for not doing so are incorporated in the Board of Appeal's decision.

SECTION 27Q-17. Sunset Provision; Subsequent Amendments. This article shall be in effect for twelve (12) months from the effective date of this amendment, unless otherwise extended pursuant to Section 27-2. While in effect, this article or portions of this article may be repealed or superseded by subsequent amendments to this article or by amendments to the Underlying Zoning as to which notice of a public hearing before the Zoning Commission is published after the effective date of this article. Upon expiration of the period for which this article is in effect, the Underlying Zoning, as amended, alone shall constitute the zoning regulations for the area governed by this article.

SECTION 27Q-18. Timetable for Rezoning. Submission of proposed zoning changes by the Boston Redevelopment Authority to the Zoning Commission shall be completed with eleven (11) months from the enactment of the Fenway IPOD, and notice of the Zoning Commission hearing on any petition to adopt proposed zoning changes shall be published within twelve (12) months of the enactment of the Fenway IPOD; provided that failure of the Boston Redevelopment Authority to submit proposed zoning changes to the Zoning Commission within eleven (11) months shall not invalidate any provision of the Fenway IPOD or Underlying Zoning.

SECTION 27Q-19. Regulations. The Boston Redevelopment Authority may promulgate regulations to administer this article.

SECTION 27Q-20. Severability. The provisions of this article are severable, and if any such provision or provisions shall be held invalid by any decision of any court of competent jurisdiction, such decision shall not impair or otherwise affect any other provision of this article.